

April 29, 2005

The President's Advisory Panel on Federal Tax Reform
1440 New York Avenue, N.W.
Suite 2100
Washington, DC 20220

The Hon. Connie Mack and John Breaux,

On behalf of the Software & Information Industry Association (SIIA), I am writing to provide comments regarding the Panel's consideration of proposals to reform the Federal tax system.

SIIA is the principal trade association of the software code and information content industries, representing approximately 600 leading high-tech companies that develop and market software and electronic content for business, education, government and consumer markets. SIIA's membership consists of some of the largest and oldest technology enterprises in the world, as well as many smaller and newer companies.

I appreciate the opportunity to submit comments as the Panel considers a wide range of reform proposals regarding the Federal tax system. These comments are directed specifically at the issue of the appropriate role of the citizen with respect to tax preparation and filing under our Voluntary Compliance system, and that of the Government as the revenue collector, regulator and enforcer. In general, this Panel's deliberations are taking place on the heels of actions by many state and local governments to increase their role in the taxation process, moving from tax administration, revenue collection and compliance to the very different, personal function of tax preparation.

These efforts—where governments seek to serve as both tax collector and tax preparer—fail to recognize the appropriate role of government in the taxation process; they infringe on the rights of Americans, represent an inappropriate foray into the private-sector business of tax preparation and present a significant range of privacy and security concerns. Most concerning, however, is that these efforts operate with an inherent conflict of interest where tax agencies seek to maximize revenue collection while citizens seek to lawfully minimize their personal tax liability.

In order to demonstrate the myriad problems with government forays into tax preparation or "return free" initiatives, it is useful to reference California's experience, where the California Franchise Tax Board (FTB) recently launched its "ReadyReturn" program. Through this program, the FTB provided "pro-forma" income tax returns which were automatically

prepared by the FTB for selected California taxpayers, essentially serving as the citizen written determination in what resembles a bill.

With the explicitly stated objective to enhance tax revenue, ReadyReturn suffers from the conflict of interest between government and tax payers. As stated by the FTB Chair and California State Controller, ReadyReturn was conceived as a key part of the solution to the projected \$6 billion tax revenue shortfall within the state treasury. However, testimony from the FTB's expert witness at their hearing on the initiative in August 2004 explained that Return-Free cannot reach to income that is truly unreported. Instead, Return-Free can only capture income already reported on W-2 wage statements from employers or 1099 statements from others such as financial institutions. Therefore, the assumptions about increased revenues must come from these wage earners, most of who already comply with and participate in the tax system. Thus, the revenue enhancement character of Return-Free principally involves deriving more tax revenue from existing taxpayers, which as a practical matter means that Return-Free serves the role of an effective tax increase, and most decidedly is not "Revenue-Neutral."

Despite explicit objectives for "Ready-Return" as a device to help close the State tax revenue gap, it is instead being publicly promoted as a service of convenience to citizens by appealing to their desire to avoid the chore of tax preparation. As a result, the public promotion of Return-Free by the California FTB is not only misleading, but the Program's objectives run contrary to California taxpayers' explicit statutory right to self-assessment.

Moreover, citizens have neither been provided with the ability to know whether the tax agency automatically preparing the bill is considering all of the legal deductions that individual taxpayers are potentially entitled to in order to minimize their tax bill, nor been educated about the sole personal liability to the taxpayer of accepting the return prepared by the government, which itself accepts no liability or responsibility for the accuracy of the return it prepared. With respect to government accepting no shared responsibility for the accuracy of a return it prepared, it is critical to note that this governmental practice is completely contrary to the best practices followed by the tax preparation services industry.

In California, the initial Return-Free focus is on a limited taxpayer population filing very simple returns, and which is planned to be expanded to at least 3 million taxpayers overall, which does not include the highest level incomes or returns of greater complexity. As a result, for the most part this will tend to make the program focus most on lower income, often marginalized population groups. As a practical matter, there is a great risk that such a Return-Free tax system could particularly take advantage of those with the least in our society, and thus, in the name of seeking higher revenue receipts for the treasury, introducing a significant new element of unfairness to American taxation.

Foreign government experiments with Return-Free raise a number of concerns which must be taken into account as well. Often these activities are taking place in societies where voluntary compliance and citizen participation in the tax system is counter-cultural, and

where the mission and role of the government is quite different in such matters than has been the American experience. And in those countries which more closely approximate a version of what we think of as voluntary compliance, such as Great Britain, the government-centric solutions that have been adopted have been notably unsuccessful and troubled.

Taking all of these factors together, tax systems which substitute government-provided tax preparation for citizen voluntary compliance will ultimately expand the role of government inappropriately, impede and effectively circumscribe taxpayer rights, and ultimately serve to increase, not decrease, tax burdens, doing so in the most pernicious way possible, through a tax system that entails reduced fairness and increased taxes.

Over the past twenty years, it is the private sector high-tech IT industry that has developed and brought to market a choice of simple, inexpensive software and Web-based tools, empowering consumers and small businesses to manage and take control of their own finances, including tax planning and preparation as a vitally important element of those capabilities. Regardless of what changes are ultimately adopted in the American tax system, the software industry can design and deliver those products and services needed to enable the American economy to comply.

We may share comments at a later time about specific tax reform proposals that may be recommended by the Panel or the President, but we wanted to share these thoughts now about the concept of Return-Free, as well as to affirm the extensive capabilities of this industry to develop the consumer and small businesses tools needed for taxpayers to inexpensively and efficiently participate in, and exercise Voluntary Compliance for, any reformed tax system that may emerge from the current policy development process.

Sincerely,

A handwritten signature in black ink that reads "Ken Wasch". The signature is written in a cursive, flowing style.

Ken Wasch
President